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TRIBUTE TO FREDERICK W. WHITESIDE, JR.

BY ROBERT G. LAWSON*

I did not know what to make of Fred Whiteside when I first encountered him as a law student in 1961. I was astonished to see someone who seemed to know every word of every line of the Internal Revenue Code and its mass of regulations and even more astonished to see someone who actually loved the law of income taxation. I liked him from the beginning but at the time did not know exactly why. It was obvious that he worked hard to succeed as a teacher, liked what he was doing, loved to be around students, and became noticeably excited upon the slightest sign of student enthusiasm for tax law. I did not at that moment appreciate Fred's talents as a legal scholar, which were quite substantial, but came very quickly to appreciate the genuine concern and love that he had for students who came under his influence. I wish I had worked harder during that time to develop a personal relationship with him, knowing now that it is the personal side of this man that puts him in a class by himself.

I saw very little of Fred during my years in law practice, steered well clear of tax practice, and thus had no particular reason to think about him. I returned to the law school as a faculty member in 1966 and got a very early glimpse of Fred Whiteside as a colleague, for his was the first face in the doorway of my office as I embarked on this new endeavor. He came not

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to give advice or to intrude, only to let me know that he was pleased to have me as a colleague and that I needed only to ask for help should help be needed. What I discovered about him in the years ahead was that he was never too preoccupied to listen, never too busy to offer a helping hand, never too concerned about himself to be concerned about others, and always full of affection for the people around him, especially the young people who came to the law school for study. He never saw a law student he didn't like and for that reason felt the joy of their successes in life and the pain of their occasional failures.

I recall some events surrounding Fred's retirement from active faculty status that add to the portrait he left behind. He retired in 1978 at the age of sixty-five after almost forty years of teaching, forced to do so by mandatory retirement regulations that were rendered obsolete by age discrimination laws almost before the ink was dry on his retirement papers. He had not wanted to retire, had been a teacher for practically all of his professional life, and was still striving to undo his retirement when I assumed the college deanship in 1982. It fell to me to deliver the final word that his retirement was permanent, an unpleasant task that produced what everyone who knows Fred Whiteside would have expected—disappointment in the outcome but no anger or bitterness in his response and no lasting impairment of his exceedingly positive outlook on life. True to his nature and character, he turned his attention to other things of importance and continued to be an active and productive member of the law school community for almost two decades after his retirement from the faculty.

I was lucky to live in the same direction and farther from the law school than Fred Whiteside and often had the pleasure of giving him a ride home after work. Conversation during these short trips was usually very light and sometimes quite personal. I learned a lot about Fred's family, especially the daughters he loved and the grandchildren he thought were so special. I discovered that he was a very funny person. I came better to appreciate the qualities that stood him apart from others—substantial intellect, unmatched sincerity, refreshing simplicity, a sense of fairness, and humility about all else. I had several of these brief encounters with Fred during the last months of his life, as he continued to use his law school office at the age of eighty-nine and continued to need rides home after work. He was feeble, almost blind, but still one of the most pleasant individuals anyone has ever known—kind, decent, and gentle beyond all belief. It is easy now to see why I liked him upon that first encounter forty years ago and why I consider it a stroke of luck and good fortune that I can claim to have been one of his friends.

According to the 1949 Bulletin, law school tuition was \$60 a semester (\$118 for non-residents), Lafferty Hall was “one of the newest law school buildings in the nation,” and 60 undergraduate hours and a 2.3 (on a 4.0) scale were required for admission. Elvis Stahr was the dean, W.L. Matthews, Paul Oberst, Frank Murray, and Roy Moreland were the core of the faculty, and—according to a typewritten addendum to the 1949 Bulletin—two new associate professors had joined the faculty: Wilbur Ham, from the University of Cincinnati, and Fred Whiteside, from the University of Arkansas.

I graduated from the UK College of Law in 1964 (tuition was up to \$115 a semester in 1964). I did well in Fred’s classes, though what I remember is not the material (tax and the Uniform Commercial Code) but the man—gentle, kind, understated—and interested in us as people and future lawyers. The class of 1964 was (and is) a close class, and we loved Fred. He regularly came to our class reunions, and we embraced him with a fondness that went beyond class reunion sentimentality.

When I came back to the law school in 1969 as an assistant professor, Fred immediately accepted me as a colleague. He was easy to talk to and he seemed to value my ideas and my work. 1969 was a time of tension. The feelings over the Vietnam war were intense (Spring 1970 saw the Kent State shooting and the burning of the UK ROTC building) and the law school faculty splintered over a host of issues. It was a time of bad feelings, of choosing sides, of making an issue over things that weren’t important. I remember Fred as a moderating influence. He didn’t lose his temper, wasn’t malicious, and voted on the basis of principle, not personalities.

After his retirement (almost 25 years ago) Fred—and Paul Oberst, who had also retired—continued to come to the law school every day. Fred was engaged in productive activity throughout his retirement years, and continued to show the rest of us what it means to be a colleague. Though retired, he came to faculty meetings and law school events, and took an interest in the faculty’s professional and personal lives. We came to take Fred for granted—to assume he would always be in the faculty lounge making coffee, and commenting, in his understated and often humorous way, on whatever turn the conversation took. In the forty years I knew

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Fred, I never heard him say anything unkind about a student or colleague—or anyone else.

We will miss him.

Fred Whiteside. Just saying the name brings back to all of us who knew him our own personal memories of Professor Frederick W. Whiteside, Jr., and inevitably those memories are warm and pleasant. The memories are of a man of intellect, kindness and decency.

Writing any piece about Fred is difficult because of the personal sorrow caused by the loss of such a dear friend, colleague and mentor. But at another level, writing about Fred is also difficult because of his remarkable personality and remarkably personal way he interacted with people. Fred had the ability to make each of us think that we were special to him, and, indeed, each of us probably was. It was one of Fred's most defining traits. The result for me is that my memories of Fred are so personal that, in writing this tribute, I constantly had to tell myself: it's not about you; it's about Fred.

Fred Whiteside was so much a man of his time, but he always seemed to be extraordinary. He grew up in Arkansas. In 1933, he was graduated Phi Beta Kappa from the University of Arkansas. He then went on to Cornell Law School, where he was an editor of the *Cornell Law Quarterly* and a Coif graduate in the class of 1936. He joined a New York City law firm upon graduation and later practiced in the Justice Department. During World War II, Fred served in the Pacific as the damage control officer on the *USS Cabot*, and he and the *Cabot* were in the thick of things. Early on, the *Cabot* was attacked by a kamikaze and sustained damages so extensive that the ship was required to return to port for repairs.

In 1949, Fred was persuaded by Dean Elvis Stahr to join our law faculty, and to our great fortune, he spent the balance of his professional career teaching at the College of Law, except for visits to other law schools, such as the University of Illinois and Ohio State University. While Fred taught various courses, to all of us who were his students, he always will be thought of as a tax professor, and certainly until his "retirement," it was tax that most occupied his time.

Fred brought to his profession and to his students and colleagues an extraordinary combination of intelligence, personal integrity, kindness, concern for others and downright gentleness.

Although I may be failing to remember it is not about me, I was lucky to get to experience Fred's work in various settings during his professional

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life and thus to see these wonderful characteristics for myself. I was privileged to study tax law under him while I was a student and then later to be his colleague. From 1982, when I returned to the faculty from practice, until Fred's death in 2001, except for a five year period when I was doing administrative work, Fred and I occupied offices that were next to each other. Being next door to Fred every day of my working life for that period of time was one of my fondest experiences so far in teaching. Fred always kept up with my family; he knew when my daughter went to college and what her major was. He knew when my father had doctors' appointments at the medical center. He always knew my teaching schedule. He always told me when he and Martha Jane were going to be away on trips (he was afraid I'd be concerned if he did not show up at the office). That's just the way Fred was.

This close proximity to Fred allowed me to enjoy and appreciate the wonderful, human side of Fred, not only his kindness and his true concern for others but also that delightfully mischievous sense of humor of his.

One final Fred story and then I'll stop.

Many may not know this, but in the early 1950s before Fred and his wife, Martha Jane, were married, Fred's main bachelor friend was Professor Dick Gilliam, a hard living, much beloved colleague who was known—how do I say this with some delicacy—for enjoying a spot of whiskey now and then (Professor Gilliam, during my generation at the law school, was known among the students as “Whiskey” Dick Gilliam, a name that was bestowed with affection and the utmost respect, but it was a name with some factual foundations).

Professor Gilliam was quite a bit older than Fred, and by the 1980s had fallen into poor health. Naturally, Fred, being Fred, kept up with Professor Gilliam who had returned to Virginia and was at the end in a nursing home. Fred would come into my office every month or so and we would call Professor Gilliam or his relatives or the nursing home to check up on him.

Finally, one day I came into my office, and Fred came over immediately. I knew something was wrong.

“Biff,” Fred said, “Dick died last night.”

Although we had expected this, the news was disheartening. “Fred,” I said, “I’m terribly sorry. He was a wonderful man, and I know he was your dear friend.”

“Yes, he was, Biff,” Fred said, and there was a pause.

And then Fred said, recalling, I assumed, past good times with his old friend, “I guess all that drinking finally killed him.” Professor Gilliam was ninety at the time of his death.

I didn't know whether to laugh or cry, but nature took over and Fred and I did a little of both at that point. But it was vintage Whiteside:

kindness, concern for others and always that wonderful, quiet, mischievous sense of humor.

We mourn Fred's passing but are privileged to have had time with such a great man.